



Common Filing Errors

The Clerk's Office has identified the following four recurring errors with attorney filings over the past six months.

1. Incomplete or Improper Forms

- **Issue:** Counsel submit forms that are incomplete, outdated, or have incorrect information.
- **How to Avoid:** Verify that you have the most up-to-date form by reviewing the forms on our website, read all instructions carefully, and confirm any empty sections of a form are completed in accordance with the form's instructions or local rules. You may use "N/A" if an item does not apply and you are unsure whether it should be filled in. If there is not enough space to provide a complete answer, you may attach continuation pages.
- **References:**
 - Entry of Appearance Form 8.
 - Federal Circuit Rule 47.3(c)(1): Each attorney who intends to participate in an appeal must file, within 14 days of docketing, an entry of appearance on the form provided by the clerk of court.
 - Certificate of Interest Form 9.
 - Federal Circuit Rule 47.4(a): A certificate of interest must be in the form set forth in the appendix to these rules, and must contain the information below in the order listed. Negative responses, if applicable, are required as to each item on the form.
 - Statement Concerning Discrimination Form 10.
 - Federal Circuit Rule 15(c): Within 14 days after a petition for review of a decision of the Merit Systems Protection Board or a decision of an arbitrator under 5 U.S.C. § 7121 is docketed, the petitioner must serve on the respondent and file with the clerk of court a statement whether or not a claim of discrimination by reason of race, sex, age, national origin, or handicapped condition has been or will be made in the case.



- Practice Note to Rule 15: Failure to complete the discrimination statement will result in dismissal of the petition for review.
- Docketing Statement Form 26.
 - Federal Circuit Rule 33.1: The court may adopt mediation guidelines with respect to mediation of the cases pending before the court. These guidelines shall be binding on the parties.
 - Appellate Mediation Program Guidelines (3): The docketing statement is a form to be completed by counsel.....All counsel must complete the form within 14 days of docketing. When the United States or its officer or agency is a party, all counsel must complete the form within 30 days of docketing.
- Bill of Costs Form 24 and Instructions Sheet Form 23.
 - Federal Circuit Rule 39(b): A party must file the bill of costs on the form prescribed by the court.

2. Incorrect or Improper Appendix Page Formatting

- **Issue:** Counsel submit appendices with improper pagination and briefs with appendix citation errors. The court uses a system that links references in briefs to corresponding appendix pages, thus providing chambers immediate access to materials when reviewing briefs electronically. For the system to work, appendix citations and page numbers must follow a specific numbering format.
- **How to Avoid:** All appendix pages must be preceded by Appx or SAppx and then the number, without any intervening non-numerical characters or spaces. Further clarification on appendix page and reference formatting is provided in the court's [Electronic Filing Procedures](#), established pursuant to Federal Circuit Rule 25(c)(4).
- **References:**
 - Federal Circuit Rule 28(f): Reference in the brief to pages of the joint appendix and, if permitted, of a supplemental appendix must be as short as possible consistent with clarity and must follow the numbering format specified in Federal Circuit Rule 30(b)(4)(E), e.g., "Appx134," "Appx3-17" or "SAppx1185."



- Federal Circuit Rule 30(b)(4)(E): The pages of the appendix or supplemental appendix shall be numbered by the automated Bates numbering feature of the software used to convert the appendix to a .pdf document and must be in the format "Appx" or "SAppx" followed by the page number(s); e.g., "Appx134," "Appx3-17," or "SAppx1385."
- [Electronic Filing Procedures](#)
 - Appendix Page References, p. 23
 - Bates Numbering, p. 24

3. Incorrect Cover Pages for Briefs, Appendices, Motions and Petitions

- **Issue:** Filings in a case must use an appropriate cover (or first page, if authorized). The Clerk's Office frequently identifies filings that have a cover or first page that does not contain all required information. The most common error is a cover or first page with a caption that omits parties, uses incorrect designations, or otherwise does not match the official or short caption (unless a local rule states a short caption may be used on a cover or first page, the official caption must be included). Covers must also include other case- and filer-specific information required by the rules or [Electronic Filing Procedures](#). Covers occasionally omit or fail to provide a complete case number, nature of proceedings, document title, and listing of the filer's contact information.
- **How to Avoid:** Review the rules noted below and verify and copy the caption as shown in CM/ECF. When in doubt as to whether a cover is necessary or how formal it should be, it is better to include a formal cover—there is no rule preventing excessive formality.
- **Reference:**
 - Rules regarding cover requirements or applicability:
 - Federal Rule of Appellate Procedure (FRAP) 27(d)(1)(B); Federal Circuit Rule (FCR) 27(a)(2); FCR 27(m)(2)(A); FCR 27(m)(2)(B); FCR 28(d)(2)(A); FCR 28(d)(2)(B); FRAP 28.1(d); FRAP 29(a)(4); FCR 30(a)(5); FCR 30(d)(1); FCR 30(h)(2)(A); FCR 30(h)(2)(B); FRAP 32(a)(2); FCR 32(c)(2)(A); FCR 35(d); FCR 35(e)(1)(A)(1); FCR 35(e)(2)(A); FCR 35(e)(3)(A); FCR 35(e)(4)(A); FCR 40(a)(1); FCR 40(d)(1)



- Practice Notes with more information regarding covers:
 - "Official Caption; Participation in the Appeal by Appellees; Consolidation of Previously Consolidated Cases and Cross-Appeal" (Practice Note to Rule 12); "Preferred Cover" (Practice Note to Rule 32); "Errata; Corrections to Be Made by Counsel or a Party" (Practice Note to Rule 32)
 - Federal Circuit Rule 30(h)(2)(A)
 - Federal Circuit Rule 30(h)(2)(B)
- Corrected Filings ([Electronic Filing Procedures](#), p. 35)
- [Reviewing the Official Caption](#)
- Sample Covers:
 - [MSPB Case](#)
 - [District Court Case](#)

4. Lack of Certificate of Compliance with the Word/Line Count

- **Issues:** Counsel fail to include a certificate of compliance stating the exact word/line count when filing briefs, petitions, motions papers, and other filings that require such a certification.
- **How to Avoid:** If the rules specify a word or line count for a filing, it is most likely that a certificate of compliance is required. When filing a certificate of compliance, always ensure the exact count is included. When unsure if a certificate of compliance is required, it is better to include one.
- **References:**
 - Federal Rule of Appellate Procedure 32(g)(1): A brief submitted under Rules 28.1(e)(2), 29(b)(4), or 32(a)(7)(B)—and a paper submitted under Rules 5(c)(1), 21(d)(1), 27(d)(2)(A), 27(d)(2)(C), 35(b)(2)(A), or 40(b)(1)—must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the document. The certificate must state the number of words—or the number of lines of monospaced type—in the document.



- Federal Rule of Appellate Procedure 28(a)(10): the certificate of compliance, if required by Rule 32(g)(1).
- Federal Circuit Rule 28.1(c): A brief submitted under this rule must comply with Rule 32(g)(1).
- Federal Rule of Appellate Procedure 29(a)(4)(G): A certificate of compliance under Rule 32(g)(1), if length is computed using a word or line limit.
- Federal Circuit Rule 32(a)(13): The certificate of compliance, if required by Federal Rule of Appellate Procedure 32(g)(1).
- Practice Note to Rule 32: Federal Rule of Appellate Procedure 32(g) states that the use of Federal Rules of Appellate Procedure Form 6 is sufficient to satisfy the requirements of Rule 32(g). That form is reproduced as Federal Circuit Form 19. Parties are reminded that some software programs do not automatically include footnotes. When certain text is marked for word count or line count purposes, a party may need to separately mark text in footnotes and include those words or lines in the certified count. It is the responsibility of the filing party to ensure that its certificate of compliance is accurate.
- Certificate of Compliance – Word/Line Count ([Electronic Filing Procedures](#), p. 45)